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Convention on the Elimination of All Forms of Discrimination against Women

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Committee on the Elimination of Discrimination against Women
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Item 7 of the provisional agenda*
Implementation of article 21 of the Convention on the Elimination of All Forms of Discrimination against Women

Reports provided by specialized agencies of the United Nations on the implementation of the Convention in areas falling within the scope of their activities

Note by the Secretary-General

Addendum

International Labour Organization

1. On behalf of the Committee, the Secretariat invited the International Labour Organization (ILO), on 29 October 1998, to submit to the Committee by 5 December 1998 a report on information provided by States to ILO on the implementation of article 11 and related articles of the Convention on the Elimination of All Forms of Discrimination against Women, which would supplement the information contained in the reports of those States parties to the Convention to be considered at the twentieth session of the Committee.

2. Other information sought by the Committee refers to activities, programmes and policy decisions undertaken by ILO to promote the implementation of article 11 and related articles of the Convention.

3. The report annexed hereto has been submitted in compliance with the Committee's requests.

* CEDAW/C/1999/I/1.

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Annex

Report of the International Labour Organization under article 22 of the Convention on the Elimination of All Forms of Discrimination against Women

Geneva, December 1998

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Part I: Introduction

The provisions of article 11 of the Convention on the Elimination of All Forms of Discrimination against Women are dealt with in a number of ILO Conventions. Of the 181 Conventions adopted so far, the information in the attached report relates principally to the following:

- the Equal Remuneration Convention, 1951 (No.100), which has been ratified by 137 member States;
- the Discrimination (Employment and Occupation) Convention, 1958 (No.111), which has been ratified by 131 member States;
- the Workers with Family Responsibilities Convention, 1981 (No.156), which has been ratified by 26 member States.

Where applicable reference is made to a number of other Conventions which are relevant to the employment of women:

Employment policy

- the Employment Policy Convention, 1964 (No. 122)
- the Human Resources Development Convention, 1975 (No.142)

Maternity protection

- the Maternity Protection Convention, 1919 (No.3)
- the Maternity Protection Convention (Revised), 1952 (No.103)

Night Work

- the Night Work (Women) Convention (Revised), 1948, (No.89) [and Protocol]
- the Night Work Convention, 1990 (No.170)

Underground Work

- the Underground Work Convention, 1935 (No.45)

Part time work

- the Part-Time Work Convention, 1994 (No.175)

Home work

- the Home Work Convention, 1996 (No. 177)

The application of ratified Conventions is supervised in the ILO by the Committee of Experts on the Application of Conventions and Recommendations (CEACR), a body of independent experts from around the world, which meets annually. The information submitted in Part II of the present report consists of observations and direct requests made by the Committee. Observations are comments published in the CEACR's annual report - produced in English, French and Spanish - which is submitted to the International Labour Conference. Direct requests (produced in English and in French - and in the case of Spanish-speaking countries, also in Spanish) are not published, but are made public.

Part II: Indications concerning the situation of individual countries

Algeria

Position in regard to ILO Conventions relating to women

I. Among the relevant ILO Conventions, Algeria has ratified Conventions Nos. 100 and 111. Algeria has also ratified Conventions Nos. 3, 89, 122 and 142.

II. **Comments by the ILO supervisory bodies**. The pending comments of the ILO Committee of Experts on matters relevant to the provisions of CEDAW relate to:

Convention No.100: In a direct request submitted in 1997, the Committee requested the Government once again to supply the information necessary to enable it to assess the application in practice of the principle of the Convention, and in particular information on the occupations and sectors employing a large number of women (in both the public and private sectors) and the distribution of men and women at the various wage levels. The Committee further noted that Decree No. 82/356 of 1992 determining the national method for the classification of jobs had been repealed and that wages were to be fixed by collective bargaining. The Committee pointed out that the application of the concept of work of equal value implied, logically, a comparison of tasks and therefore the existence of machinery and procedures for providing appraisal free of any discrimination based on sex. Consequently, the Committee requested the Government to supply information on the measures taken or contemplated to ensure or promote the application of the principle of the Convention and national legislation on the subject.

In addition , the Government's 1998 report indicated that the Government would be undertaking a national survey on wages (starting from September 1998) which would incorporate the concerns raised by the Committee.

Convention No. 111: In an observation submitted in 1997, the Committee noted with interest the creation, by Executive Decree No.97-98 of 1997, of a tripartite and inter-ministerial National Council of Women. In a direct request, submitted the same year, the Committee noted from the statistical information provided by the Government that there had been a slight but steady increase in the number of girls in the middle-level schools (1993-94: 43.6 per cent; 1994-95: 44 per cent; 1995-1996: 44.4 per cent and 1996-97: 45.6 per cent) and in secondary schools (1993-94: 48.6 per cent; 1994-95: 49.8 per cent; 1995-96: 50.1 per cent and 1996-97: 52.5 per cent). The Committee also noted a slight increase in female participation in higher education (1992-93: 42 per cent; 1993-94: 42.6 per cent; 1994-95: 42.7 per cent; 1995-96: 44.8 per cent and 1996-97: 47 per cent) and in vocational training (1992: 38.9 per cent; 1993: 38.7 per cent; 1994: 40.3 per cent; 1995: 43.9 per cent and 1996: 47 per cent). The Committee also noted, however, that the statistics provided revealed a drop in the proportion of girls and women in technical education. The Committee asked the Government to consider what measures might be taken under the national policy on gender equality to inform and raise awareness with a view to facilitating the access of girls and women to more diversified technical education and vocational training. Furthermore, the Committee took note of Executive Decree No. 96-262 of 1996

amending and supplementing Decree No. 87-209 to organize the planning and management of training and retraining abroad. It also noted Executive Decree No. 97-197 of 1997 on the operation and functions of the National Advisory Council for Vocational Training and requested the Government to provide information on equality in training organized by this Council.

Convention No.122: In an observation, submitted in 1997, the Committee noted that the employment increase in the modern sector and the informal sector has proved to be insufficient to absorb the growth in the active population, and that the employment rate had reached the unprecedented rate of 28.3 per cent in 1996. The Committee further noted the contrast between the progress made within the framework of the structural adjustment programme agreed with the International Monetary Fund and the deterioration of the employment situation. The Committee expressed its concern in regard to the effective pursuit of an active policy designed to promote full, productive and freely chosen employment and requested the Government to supply information demonstrating the measures taken in this regard.

Convention No. 142 In a direct request submitted in 1993, the Committee noted with interest the report on the application of the recommendations of the National Advisory Vocational Training Council and requested the Government to continue to supply extracts of relevant reports, studies and inquiries concerning vocational training and guidance policies and programmes. It also requested the Government to provide information on the manner in which these policies and programmes are related to employment and the employment services and to indicate the action taken or envisaged as a result of the assistance provided by the ILO as well as any factors which had prevented or delayed such action.

China

Position in regard to ILO Conventions relating to women

I. Among the relevant ILO Conventions, China has ratified Convention No.100. China has also ratified Conventions Nos. 45 and 122 (not yet in force).

II. **Comments by the ILO supervisory bodies**. The pending comments of the ILO Committee of Experts on matters relevant to the provisions of CEDAW relate to:

Convention No. 100 : In a direct request submitted in 1996, the Committee noted with interest the tripartite seminar on Equality and Women Workers' Rights held in Beijing in May 1996. With regard to the application of the principle of equal remuneration on all payments and benefits granted above the minium wage, it noted that section 23 of the 1992 Act on the Protection of the Rights and Interests of Women provided that women shall be equal with men in the allotment of housing and the enjoyment of welfare benefits. The Committee requested the Government to indicate whether any other measures had been taken to ensure that discrimination on the basis of sex did not occur with respect to all other types of benefits or payments made above the minimum wage. The Government indicated that the principle of equal remuneration for work of equal value is being facilitated by the introduction of the post and skill wage system, which is playing the role of an objective appraisal of jobs on the basis of the work to be performed. The Committee pointed out, however, that some elements mentioned in the criteria used to evaluate jobs in the post and skill wage system, such as those concerning working conditions, may favour men over women. The Committee suggested that the Government examine the possibility of undertaking an analysis of the actual situation of women, in terms of their grading levels and remuneration, as compared to that of men, under the wage system in operation. Furthermore, the Committee noted that, in line with section 2 of the 1994 labour Act and section 2 of the Regulations concerning the minimum wages in enterprises, the principle of equal remuneration for equal work applied to all workers, including those employed in agriculture, construction, education and health, small and medium-sized enterprises and special economic zones. The Committee noted that the labour administrative departments at various levels are responsible for the supervision and enforcement of the labour legislation in the employment units and that means of redress existed under the law for women workers whose rights had been violated. Finally, the Committee requested additional information on the Government's "Programme for the Development of Chinese Women" which highlighted as a target the implementation of equal pay for equal work for both sexes in the city and the countryside.

The Government's 1998 report under this Convention contains statistical data on women's participation in the formal sector. The Government's report further states that China is examining methods to compare and assess the value of work in different industries and occupations with the goal of eliminating inequality in remuneration, particularly in those occupations that are female dominated. The Government indicates that the Committee's comments will be of assistance in the implementation of the post and skill wage system, particularly in occupations where women are heavily concentrated.

Colombia

Position in regard to ILO Conventions relating to women

I. Among the relevant ILO Conventions, Colombia has ratified Conventions Nos. 100 and 111. Colombia has also ratified Convention No. 3.

II. **Comments by the ILO supervisory bodies**. The pending comments of the ILO Committee of Experts on matters relevant to the provisions of CEDAW relate to:

Convention No. 3 : In a direct request submitted in 1993, the Committee noted with interest the Government's statement that it is examining the possibility of issuing regulations to provide for compulsory postnatal leave of at least six weeks. Since the Government also indicated that in practice women were able to take their full maternity leave of 12 weeks after confinement, the Committee hoped that the Government would introduce a provision which expressly prohibits women workers from working for a period of six weeks after their confinement. With regard to prenatal leave when confinement takes place after the estimated date, the Committee expressed the hope that the Government would bring the national legislation into full conformity with the Convention. The Committee further recalled that the present legislation provided that women could, on a voluntary basis, reduce maternity leave to 11 weeks by ceding the remaining week to their spouse or companion. The Committee noted that in certain cases this may reduce the postnatal leave to less than the compulsory six weeks prescribed by the Convention. It hoped that an appropriate solution would be found to this problem. Finally, the Committee hoped that the legislation regulating the public service will be brought formally into line with section 43 of Act No. 50 of 1990 under which maternity leave of 12 weeks applies to women in both the private and public sectors.

The Government's report of 1998 under this Convention indicates that section 19 of Legislative Decree No. 3135 and section 33 of Decree No. 1848 of 1969 concerning the length of maternity leave for public sector employees have been tacitly repealed by section 34 of Act No. 50 of 1990 in as much as this section applied to women employed in the public sector. The Government indicates in its report that these provisions will be amended as part of the next reform of the Rules governing the public service employees and social benefits.

Convention No. 100 : In a direct request submitted in 1996, the Committee referred to its previous comments on section 143 of the Labour Code which did not seem to be construed as encompassing equal remuneration for work of equal value. The Committee pointed out that by requiring jobs to be compared in terms of their value, the Convention goes beyond the concept of identical or similar work, and requested the Government to amend section 143 of the Labour Code. With regard to the criteria (length of service, improvement of occupational skills and output) taken into account in methods of evaluating tasks in order to determine wages, particularly in large enterprises, the Committee stated that, while the criteria were not discriminatory in themselves as a basis for wage determination, they had to be bona fide. It requested the Government to indicate how it ensured that these methods for assessing tasks are not applied in a discriminatory manner. The Committee also noted that Decree No. 1398

(sections 14 and 15) provided for the establishment of a coordination and supervision committee to monitor strict application of its provisions.

The Government's report of 1998 refers to a decision of the Constitutional Court (No. T-026 of 26 January 1996) establishing criteria for evaluating jobs in order to determine the existence of discrimination on the basis of sex. According to the Government's report, the Court held, *inter alia*, that the exclusion of certain activities from the scope of equal opportunity and treatment on the basis that the sex of the actor is an inherent requirement of the activity, must be analysed in a restrictive manner.

Convention No. 111: In an observation submitted in 1995, the Committee noted with satisfaction the adoption of the Ministry of Labour and Social Security resolutions No. 3716 and No. 3941 of 1994 restricting the requirement of a pregnancy test for obtaining employment in both the public and private sectors. It also noted with interest the Minister of Labour's circular concerning compliance with the constitutional provisions on equality between men and women, including elimination of sex-based discrimination and sexual harassment. The Committee further noted the legislative initiatives with regard to equality of opportunities in terms of access to and working conditions in certain posts excluded from the career public service, following a Constitutional Court Ruling of 21 April 1994. In an observation of 1997, the Committee noted with interest the adoption of Act MO. 393 of 1997 on enforcement procedures and requested the Government to inform it whether cases could be brought under this Act for acts of discrimination in employment and occupation.

Greece

Position in regard to ILO Conventions relating to women

I. Among the relevant ILO Conventions, Greece has ratified Conventions Nos. 100, 111 and 156. Greece has also ratified Conventions No. 3, 45, 89, 103, 122, 142 and 156.

II. **Comments by the ILO supervisory bodies**. The pending comments of the ILO Committee of Experts on matters relevant to the provisions of CEDAW relate to:

Convention No. 89: in February 1993, the Government of Greece denounced the Night Work (Women)Convention (Revised), 1948 (No. 89).

Convention No. 100: In a direct request submitted in 1996, the Committee noted the creation of a National Institute of Labour in 1993 to undertake research and to monitor the characteristics and to analyse the structure of vocational training as well as to organise such training. The Committee also noted the establishment of a special fund for vocational training and educational programmes, of a national vocational guidance centre (Act No. 2224 of 1994), and of the Economic and Social Committee (Act No. 2232 of 1994).

The Government's report of 1998 indicates that the National Institute of Labour has not yet carried out any research on equal remuneration and that there has been no need for the Economic and Social Committee to give its advice on matters concerning equal remuneration.

Convention No. 103: In an observation of 1994, the Committee noted with satisfaction that the provisions of section 4 of Act No. 1846 of 1951 had been repealed by section 24 (1) of Act No. 1902 of 1990 which henceforth permitted the protection laid down by the Convention to foreign women workers temporarily employed in Greece. The Committee also noted the legislative measures to ensure compulsory postnatal leave of two months to a public official whose child is stillborn. In a direct request submitted in the same year, the Committee noted the information on the application of the Convention to agricultural workers and requested the texts of the appropriate laws or regulations in this regard.

The Government's report of 1998 indicates that agricultural workers are covered by the same legislation as other female employees insured by the Social Insurance Institute (IKA). The report also includes a number of judicial decisions concerning protection against dismissal of women employees during their maternity leave.

Convention No. 111: In a direct request submitted in 1997, the Committee noted the creation of the Research Centre for Equality Questions. It noted the Government's efforts to encourage participation of women in the development of the Eastern Macedonian and Thrace regions through concrete measures. The Committee further noted the career progression of women in the public service. Nevertheless, the Committee found that,
in general, the statistical data contained in the Government's report showed that changes in the composition of the labour force in a particular sector appeared to have reinforced the already

existing division between traditional male and female sectors. Finally, the Committee noted the limitation, set out in Act No. 2226 of 13 December 1994, on the percentage of women admitted for training in the Police School (not to exceed 20 per cent) and the Armed Forces Officers' School (not to exceed 15 per cent). It considered that these general limitations did not allow for a careful examination of each case on the basis of individual capacity and requested the Government to indicate the considerations of service on which the specific limitations were made.

Convention No. 122: In a direct request submitted in 1997, the Committee noted that the Government's report confirmed, *inter alia*, the worrying trend that the unemployment rate of women is double that of men despite a considerably lower activity rate. Restructuring of industrial enterprises and migration flows were, according to the Government, the main causes of persistent labour market problems. The Committee further noted the establishment of the Economic and Social Committee in which employers' and workers' representatives participate.

Convention No. 142: In a direct request, submitted in 1995, the Committee noted the information on the various bodies responsible for vocational training and guidance: the National Vocational Training and Employment Council (ESEKA), the National Institute of Labour and the Organization for Vocational Education and Training.

Convention No. 156: In a direct request submitted in 1994, the Committee noted the Government's statement that the social benefits of seafarers of both sexes are guaranteed by the Special Family Benefit Fund for Seafarers and by the Seafarers House. It also noted that the Minister of Labour may extend the applicability of the provisions of the Act on the protection and facilities for workers having family responsibilities, to enterprises of a certain size (formerly excluded by the Act). The Committee further noted the provisions of Acts Nos. 2083 and 2085 of 1992 concerning, respectively, the modernization of higher education and the regulation of questions on the organization, functioning and staff of the public administration, which accord new types of leave to mothers of small children. The Committee requested information on whether fathers of small children were also entitled to other leave enabling them to reconcile their work and family responsibilities. The Committee noted the information that the current number of centres only satisfied 65-70 per cent of the needs, especially for children under three years of age. The Committee asked the Government to report on the efforts to expand community services such as child-care and family facilities. Finally, the Committee noted with interest that section 8 of the National General Labour Collective Agreement of 1993 entitled employees in certain private enterprises to unpaid parental leave and that section 9 provided for nursing breaks which, if not taken up by the mother, may be taken up by the father for the care of his child.

Kyrgyzstan

Position in regard to ILO Conventions relating to women

I. Among the relevant ILO Conventions, Kyrgyzstan has ratified Conventions Nos. 100 and 111. Kyrgystan has also ratified Conventions Nos. 45, 103, 122 and 142. As first reports have not yet been received on Conventions No. 103, 111 and 142, recently ratified, there are no pending comments of the Committee in this regard which may be relevant to the provisions of the Convention on the Elimination of All Forms of Discrimination against Women.

II. **Comments by the ILO supervisory bodies**. The pending comments of the ILO Committee of Experts on matters relevant to the provisions of CEDAW relate to:

Convention No. 100: In a direct request submitted in 1997, the Committee noted with regret that the Government's report had not been received and requested the Government again to provide detailed information on 1) the definition of remuneration, 2) the methods used to determine rates of remuneration in application of the principle of equal remuneration between men and women for work of equal value, and 3) the new draft Labour Code submitted to Parliament and the activities of the bodies responsible for verification of the labour legislation. The Committee further pointed out, with regard to the reference made in the report to evaluating work according to its quantity and quality, that this was not sufficient to permit a comparative evaluation of different work which may be of the same value.

Convention No. 122: In a direct request submitted in 1997, the Committee noted, *inter alia*, that by virtue of the Act of 20 April 1991 on the Employment of the Population, it is the responsibility of the State to conduct a policy of promoting full, productive and freely-chosen employment in order to guarantee the citizens' right to work. The Committee also noted with interest that particular attention was paid by the employment services to the categories of workers such as women, young persons, older persons and disabled persons who are most affected by the transition process towards a market economy.

Thailand

Position in regard to ILO Conventions relating to women

I. Among the relevant ILO Conventions, Thailand has ratified only Convention No.122.

II. **Comments by the ILO supervisory bodies**. The pending comments of the ILO Committee of Experts on matters relevant to the provisions of CEDAW relate to:

Convention No.122: In a direct request submitted in 1996 (before the economic crisis), the Committee noted the information on the implementation of the Seventh National Economic and Social Development Plan (1992-1996). It noted an increased inequality in the distribution of benefits of the rapid economic growth to the detriment of the population in rural areas. It requested the Government to indicate how measures to promote industrial development in these areas contributed to the creation of employment for women workers and other particularly vulnerable categories of the population. The Committee further noted the emphasis placed on vocational training activities as a means of slowing down migration from rural areas and adapting skills of workers to new technologies, particularly in the context of the Vocational Training Promotion Act of 1994.

In addition, the Government's report of 1998 under this Convention, indicates that in the aftermath of the economic crisis, the Eight National Development Plan was revised to be relevant to the present situation, and that unemployment has become a critical issue. The Government's report further indicates that the Ministry of Labour and Social Welfare, through the Department of Skill Development (DSD), has developed strategies, including vocational training programmes for women, to enhance the knowledge and skills of women in rural areas.

It is worthwhile noting that Thailand has submitted a request to the ILO for a tripartite seminar on Convention No. 100, with a view to its ratification.

The ILO has also undertaken a series of country studies, including on the situation of women in Thailand (working title: *The impact of the economic crisis on women workers in Thailand*), in the context of its publication "Women Workers Coping With the Asian Crisis", which is expected to be finalized in early 1999.